

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

WPMP.No.2932 of 2006

AND

WRIT PETITION No: 17389 of 2005

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Date: 08.03.2006

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WPMP.NO.2932 OF 2006

Between:

The Ordnance Factor Board & another.

... Petitioners.

AND

P. Anji Babu & others

... Respondents.

WP.NO.17389 OF 2005

Between:

P. Anji Babu & others

... Petitioners.

AND

The Ordnance Factor Board & another.

... Respondents.

THE HON'BLE MR JUSTICE J.CHELAMESWAR
AND
THE HON'BLE MR JUSTICE M. VENKATESWARA REDDY

ORDER:- (PER THE HONOURABLE JC,J)

Petition is filed with a prayer as follows:

“... .. Hon’ble Court may be pleased to set aside the dismissal order, dated 07.12.2005 by restoring the WPMP.No.29776 of 2005 in WPMP.No.22129 of 2005 in WP.No.17389 of 2005 to the file and pass such other and further order or orders as the Hon’ble Court may deem fit and proper in the interest of justice.”

When the matter is taken up at the stage of interlocutory, all the learned counsel appearing in the matter i.e., the learned counsel for the petitioners, learned Assistant Solicitor appearing for respondents 1 and 2, and Sri P. Naveen Rao, learned counsel appearing for respondents 3 to 5, submitted that the writ petition itself can be disposed of.

The writ petition is filed by the respondents in O.A.No.34 of 2005 and respondents 3 to 5 herein filed the said O.A..

Respondents 3 to 5 claim to be entitled for appointment in the 1st respondent factory on the ground that the lands belonging to them were acquired for the benefit of the 1st respondent ordnance factory and at the time of acquisition, the Union of India not only agreed to pay monetary compensation for such acquisition, but also agreed to provide one job to one member of each family, whose lands are acquired. Whether respondents 3 to 5 factually belong to that particular category or not is a question of fact to be decided on merits. We do not propose to go into the question.

Petitioners 1 to 5 claim to be trained apprentices, who have undergone some training with the ordnance factory earlier at some point of time and therefore, they are entitled for preference in those jobs to which they are suitable in view of the training undergone by them. Such a preferential claim of the petitioners is based on a decision of the Supreme Court rendered in ***U.P. STATE ROAD TRANSPORT CORPORATION & ANOTHER v. U.P. PARIVAHAN NIGAM SHISHUKHS BEROZGAR SANGH & OTHERS***. The Supreme Court in the said decision held that having regard to the fact that considerable amount of money at time was spent in imparting training to the apprentices in an industrial establishment, such trained people should be given some priority in the matter of employment as and when there

is an opportunity for employment. After the said decision, respondents 1 and 2 issued a notice, dated 27.12.2004, through a newspaper calling upon those who had undergone training as apprentices with the ordnance factory, to update their respective bio-data, within the stipulated time. Apprehending that the claim of the land owners like respondents 3 to 5 herein would be ignored in view of the directions given by the Supreme Court, the abovementioned O.A. was filed.

On a consideration of the material, the Administrative Tribunal granted interim order of stay of the recruitment process. The writ petitioners got themselves impleaded in the abovementioned O.A., sought vacation of the interim orders granted by the Tribunal, but without success. Hence, the present writ petition. The main application is still pending before the Tribunal.

In the abovementioned decision, the Supreme Court had an occasion to consider whether the apprentices, who have undergone training like the writ petitioners herein have any right under the Apprentice Act 1961 to claim priority in the matter of employment in the organization where they have undergone training as apprentice. Though the Supreme Court came to the conclusion that no such right is created under the Act, however, came to the conclusion that the nation should get the benefit of time, money and energy spent on the trainees, which would be achieved when such trained people are employed in preference to non-trained direct recruits. The Court further held that such preference would also meet the legitimate expectations of the trainees. In the background of the said conclusion, the Supreme Court laid down certain guidelines indicating the manner in which the preference is to be accorded. Those guidelines are as follows:

“1. Other things being equal, a trained apprentice should be given preference over direct recruits.

2. For this a trainee would not be required to get his name sponsored by any employment exchange. The decision of this Court in *Union of India v. Hargopal*, AIR 1987 SC 1227, would permit this.

3. If age bar would come in the way of the trainee, the same would be relaxed in accordance with what it stated in this regard, if any, in this concerned service rule. If the service rule be silent on this aspect, relaxation to the extent of the period for which the apprentice had

undergone training would be given.

4. The concerned training institute would maintain a list of the persons trained year wise. The persons trained earlier would be treated as senior to be persons trained later. In between the trained apprentices, preference shall be given to those who are senior.”

It is a case where there was no competing rival claim in the sense except for the requirement of providing an equal opportunity in the matters of public employment to all eligible candidates. No rival claimants with another preferential right were present as in the instant case like respondents 3 to 5 herein. In the case of conflict between two such rival sets of claimants, who is entitled for the priority, is a matter, which requires further consideration. At any rate, it is the matter to be decided on regular hearing, which is to be done by the Tribunal as a Court of first instance in the light of the decision of the Supreme Court in

L. CHANDRA KUMAR v. UNION OF INDIA & OTHERS.

The necessity to go into that question would arise only in case of there not being sufficient number of jobs to accommodate the claimants of both the rival groups of claimants.

In the circumstances, we do not see any reason to keep the writ petition pending. We deem it appropriate to dispose of the writ petition vacating the interim order passed by the Tribunal in the abovementioned O.A. Respondents 1 and 2 would be at liberty to proceed with the recruitment process in accordance with law. It is also desirable that the O.A. itself is disposed of expeditiously, preferably, within a period of four weeks from the date of receipt of a copy of this order.

Accordingly, the writ petition is disposed of and all the WPMPs shall stand closed.
No costs.

J.CHELAMESWAR, J

M. VENKATESWARA REDDY, J

Date: 09.03.2006

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